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EXAMINER

CHANKONG, DOHM

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2152

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 09/891,264
Filing Date: June 27, 2001
Appellant(s): GYS, LUDO

David J. Cushing
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 12/14/2005 appealing from the Office action
mailed 5/27/2005.

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(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6330586	Yates et al	12-2001
6604140	Beck et al.	8-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1> The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2> Claims 1-II are rejected under 35 U.S.C § 103(a) as being unpatentable over Yates et al, U.S Patent No. 6.330.586 ["Yates"], in view of Beck et al, U.S Patent No. 6.604.140 ["Beck"].

3> As to claim 1, Yates discloses a method for providing personal services for a communication means of a user, said communication means being connected to a communication network, the method comprising the steps of:

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execution by said service computer of said service machine, said service machine managing the execution of a personal service for said communication means [column 2 «lines 60-65» | column 3 «lines 5-15 and 21-23» | column 29 «line 63» to column 30 «line 9» where: Yates' module are analogous to the service container, the module's code and SIBBs are analogous to a service machine];

provision by said service computer of at least one network lock for said first service container, said at least one network lock offering to said first service container a predefined interface to said communication network for the provision of said personal service [column 6 «lines 38-45» | column 9 «lines 1-7» | column 10 «lines 1-16» where: Yates' interfaces are comparable in functionality to the network lock and Yates' terminal domain is analogous to the service computer]; and

provision of said personal service by execution or by application by said service machine of at least one service component being transmitted to said service computer via said first service container or via a second service container [abstract | column 4 «lines 41-55» | column 15 «lines 20-23» | column 17 «lines 33-48» | column 23 «lines 29-41» | column 26 «lines 60-63» | claim 1 where: execution of code in the software module provides the personal service to the terminal in Yates' system] .

Yates does disclose a first service container containing a service machine available to a service computer [abstract | column 2 «line 66» to column 3 «line 15» | column 15 «lines 17-23» where Yates' modules is analogous to the service container and the code of the module and the SIBBs are analogous to a service machine], but does not specifically disclose transmission of the container by a service server.

4> Beck discloses a method for providing personal services including transmission by a service server of a first service container to a service computer [abstract | column 1 «lines 65-67» | column 2 «lines 1-3 and 16-20» | column 6 «lines 13-24» | column 7 «lines 26-44» | claim 66 where: Beck's service code is analogous to a service container]. It would have been obvious to one of ordinary skill in the art to incorporate the functionality of Beck's dynamic transmission of the service container into Yates' service provisioning system to allow service containers to be dynamically loaded and utilized by terminals. Beck's teaching is in line with Yates goal of providing dynamic means of configuring user terminals [column 17 «lines 1-67»]. Beck's teaching thus is an improvement over Yates as it would provide a more efficient means for devices to discover services in the network.

5> As to claim 2, Yates discloses the method as claimed in claim 1, characterized by provision by the service computer of at least one monitor lock for said first service container, via said at least one monitor lock said first service container informs the service server of a condition of the service computer [column 9 «lines 1-7» | column 15 «lines 8-12» where: Yates discloses notifications are transmitted between objects, one object being the service server, another representing the service computer].

6> As to claim 3, Yates discloses the method as claimed in claim 1, characterized by provision by the service computer of at least one management lock for said first service container, via said at least one management lock said first service container sends alarms to

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an operator terminal or a network management system [column 10 «line 64» to column 11 «line 4»].

7> As to claim 4, Yates discloses the method as claimed in claim 1, characterized in that said terminal sends a request for said service to the service server [column 25 «lines 41-61»].

8> As to claim 5, Yates discloses the method as claimed in claim 1, characterized in that it is carried out in an Intelligent Network representing said communication network [column 8 «lines 30-39»].

9> As to claim 6, Yates discloses the method as claimed in claim 1, characterized in that the service container provides a resource lock for said first service container, said resource lock offering to said first service container an application program interface and/or an interface towards a special resource point and/or an interface towards a service program interface [column 3 «lines 37-59» | column 9 «lines 1-7»].

10> As to claim 7, Yates discloses a service computer for providing personal services for a communication means of a user, said communication means being connected to a communication network,

said service computer comprising network lock means designed such that the service computer can provide at least one network lock for said first service container, said at least one network lock offering to said first service container a predefined interface to said

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communication network for provision of a personal service for said communication means [column 6 «lines 38-45» | column 9 «lines 1-7» | column 10 «lines 1-16» where: Yates' terminal domain system is comparable in functionality to the service computer]; and

said service computer comprising execution means designed such that the service computer can execute said service machine, said service machine managing the provision of said personal service for said communication means and said service machine executing or applying at least one service component for provision of said personal service, said service component being transmitted to said service computer via said first service container or via a second service container [abstract | column 2 «lines 60-65» | column 3 «lines 5-15 and 21-23» | column 4 «lines 41-55» | column 15 «lines 33-40» | column 26 «lines 60-63» | column 29 «line 63» to column 30 «line 9» | claim 1].

Yates does disclose a receiving means for the service computer [column 26 «lines 60-63»] but does not specifically disclose said receiving means for receiving of a first service container containing a service machine from a service server.

11> Beck discloses a service computer comprising a receiving means for receiving of a first service container containing a service machine from a service server [abstract | column 1 «lines 65-67» | column 2 «lines 1-3 and 16-20» | column 6 «lines 13-24» | column 7 «lines 26-44» | claim 1 where: Beck's service code is analogous to a service container, Beck's first device is analogous to a service computer, and second device is analogous to a service server]. It would have been obvious to one of ordinary skill in the art to incorporate the functionality of Beck's dynamic transmission of the service container into Yates' service provisioning system to

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allow service containers to be dynamically loaded and utilized by terminals. One would have been motivated to perform such an implementation to obtain the benefits of minimizing consumption of device resources by the terminals.

12> As to claim 8, Yates discloses a service computer module for a service computer for providing personal services for a communication means of a user, said communication means being connected to a communication network,

said service computer module containing program code able to be executed by a control means of the service computer [column 2 «lines 57-65»];

said service computer module comprising network lock means designed such that the service computer can provide at least one network lock for said first service container, said at least one network lock offering to said first service container a predefined interface to said communication network for provision of a personal service for said communication means [column 3 «lines 37-59» | column 6 «lines 38-45» | column 9 «lines 1-7» | column 10 «lines 1-16»]; and

said service computer module comprising execution means designed such that the service computer can execute said service machine, said service machine managing the provision of said personal service for said communication means and said service machine executing or applying at least one service component for provision of said personal service, said service component being transmitted to said service computer via said first service container or via a second service container [column 2 «lines 57-65» | column 3 «lines 5-15 and 55-59» | column 26 «lines 60-67» | claims 1 and 2].

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Yates does disclose a service module but does not specifically disclose receiving of a first service container containing a service machine from a service server.

13> Beck discloses a service module comprising receiving means for receiving of a first service container containing a service machine from a service server [claims 1 and 66 where: Beck's service code is analogous to a service container]. It would have been obvious to one of ordinary skill in the art to incorporate the functionality of Beck's dynamic transmission of the service container into Yates' service provisioning system to allow service containers to be dynamically loaded and utilized by terminals. One would have been motivated to perform such an implementation to obtain the benefits of minimizing consumption of device resources by the terminals.

14> As to claim 9, Yates discloses a service server for providing personal services for a communication means of a user, said communication means being connected to a communication network,

said service server comprising receiving means for receiving a request for a personal service for said communication means [column 25 «lines 38-51»];

said service server comprising provision means for providing at least one first service container [column 26 «lines 60-63» | column 27 «lines 12-31»],

containing a service machine able to manage the execution of said personal service and said service machine further able to execute or to apply at least one service component for said service provision, when said service machine is executed by a

service computer, said service component being contained in said first service container or in a second service container [Figure 4 «the items located inside the coordinator analogous to service components» | column 5 «lines 21-55» | column 17 «lines 13-20»], and

said at least one first service container being adapted to make use of at least one network lock provided by said service computer and offering to said at least one first service container a predefined interface to said communication network [column 6 «lines 38-45» | column 9 «lines 1-7» | column 10 «lines 1-16»]; and

Yates does disclose a service server comprising transmission means for transmission of a service to said service computer [column 26 «lines 60-63»] but does not specifically disclose transmitting a service container.

15> Beck discloses a transmitting a service container to a service computer [Figure 1 «item 102» | column 3 «lines 38-47» | claim 1]. It would have been obvious to one of ordinary skill in the art to incorporate the functionality of Beck's dynamic transmission of the service container into Yates' service provisioning system to allow service containers to be dynamically loaded and utilized by terminals. One would have been motivated to perform such an implementation to obtain the benefits of minimizing consumption of device resources by the terminals.

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16> As to claim 10, Yates discloses a service server module for a service server for providing personal services for a communication means of a user, said communication means being connected to a communication network,

said service server module containing program code able to be executed by a control means of the service server;

said service server module comprising receiving means for receiving a request for a personal service for said communication means;

said service server module comprising provision means for providing at least one first service container,

containing a service machine able to manage the execution of said personal service and said service machine further able to execute or to apply at least one service component for said service provision, when said service machine is executed by a service computer, said service component being contained in said first service container or in a second service container [Figure 4 «the items located inside the coordinator analogous to service components» | column 5 «lines 21-55» | column 17 «lines 13-20»], and

said at least one first service container being adapted to make use of at least one network lock provided by said service computer and offering to said at least one first service container a predefined interface to said communication network [column 6 «lines 38-45» | column 9 «lines 1-7» | column 10 «lines 1-16»]; and

Yates does discloses a service server module comprising transmission means for transmission of a service to said service computer [column 4 «lines 14-35» | column 26 «lines

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60-63»] but does not specifically disclose transmission of a service container to the service computer.

17> Beck discloses a service module for transmitting a service container to a service computer [Figure 1 «item 102» | column 3 «lines 38-47» | claims 1 and 66]. It would have been obvious to one of ordinary skill in the art to incorporate the functionality of Beck's dynamic transmission of the service container into Yates' service provisioning system to allow service containers to be dynamically loaded and utilized by terminals. One would have been motivated to perform such an implementation to obtain the benefits of minimizing consumption of device resources by the terminals.

18> As to claim 11, Yates discloses a first service container for providing personal services for a communication means of a user, said communication means, being connected to a communication network,

said first service container containing program code able to be executed by a control means of a service container [column 2 «lines 57-65»];

said first service container containing a service machine able to manage the execution of a personal service and said service machine further able to execute or to apply at least one service component for said service provision, when said service machine is executed by said service computer, said service component being contained in said first service container or in a second service container [abstract | column 4 «lines 41-55» | column 15 «lines 33-40» | column 26 «lines 60-63» | claim 1]; and

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said first service container being adapted to make use of at least one network lock provided by said service computer and offering to said first service container a predefined interface to said communication network [column 6 «lines 38-45» | column 9 «lines 1-7» | column 10 «lines 1-16» where: Yates' interfaces are comparable in functionality to the network lock and Yates' terminal domain is analogous to the service computer].

(10) Response to Argument

I. Claim Rejections under 35 U.S.C 103(a)

Claims 1-11 stand rejected under 35 U.S.C § 103(a) as being unpatentable over Yates et al, U.S Patent No. 6,330,586 [“Yates”], in view of Beck et al, U.S Patent No. 6,604,140 [“Beck”]. Applicant traverses the rejections and, with respect only to claim 1, argues in substance: (A) Yates and Beck are improperly combined because they solve different problems; (B) Yates and Beck are improperly combined because they operate according to different principles; (C) Yates does not disclose a service component; and (D) Yates and Beck fail to teach the communication means. The Office respectfully disagrees with each of Applicant's arguments.

A. The Office's interpretation of Yates and Beck

Because of the terms in the claim language, the Office feels it necessary to submit its interpretation of Yates and Beck as they map to the claim interpretation so as to better understand the response to Applicant's arguments. The claim language uses terms that are not well known, such as “service container”, “service machine” and “network lock”, but

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describe concepts that are well known in the art. Thus, it would be beneficial to understand those claimed terms in relation to the rejection based on Yates and Beck.

Yates is directed towards a service provisioning system with a goal of providing flexibility and extendibility so that services can be updated and new services can be implemented as necessary. Yates sets about accomplishing his goal by providing configurable agents that can be modified using concepts borrowed from the object-oriented paradigm. Agents are comprised of or have access to modules, each module, or combination of modules providing the desired set of services. See Yates, column 1 «lines 56-64», column 2 «line 57» to column 3 «line 23». Yates therefore is directed towards a method for providing personal services for a communication means of a user, said means being connected to a network. In Yates, a user's terminal corresponds to a communication means of the user. Id., column 3 «lines 41-44».

The modules are essentially building blocks for each particular service. The modules comprise executable code or programs that can be obtained by, for example, the terminal agent. Yates' terminal agent corresponds to claimed service computer and Yates' code corresponds to claimed service machine. When an agent, or service computer, desires services, it obtains a service container, or module and executes the service machine, or code to acquire the necessary service functionality.

Yates also provides interfaces to insure compatibility of the various modules and the terminal agent (and other agents). Id., column 6 «lines 38-45». Here, Yates interfaces correspond to claimed network lock. The interfaces in Yates provide the modules the predefined interface (see for example, Yates' use of an API) to communicate over the

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network and enable the modules to provide services and functionality desired by the agent.

Id., column 9 «lines 1-7», column 10 «lines 1-17».

In regards to the last limitation of claim 1, Yates also disclose the provision of the personal service by execution of a service component that is transmitted to the service computer via the service container. The Office's interpretation of this limitation is that the service container is responsible for obtaining and executing the service component, the service component providing the actual functionality of the service. The Office believes that Yates' policies are analogous to the claimed service component. After a module and its code has been established on the terminal agent, the module's operations are governed by the use of the policies (policies either part of or external to the module). Id., column 17 «lines 42-48». Execution of the policies ("service component") by the modules ("service container") essentially provides the service to the agent ("service computer"). Id., column 17 «line 61» to column 18 «line 8».

As discussed in the previous action, Yates did not expressly disclose a service server or the transmission of the service container by the server to the service computer. However, as should be clear from Yates specification, the modules ("service container") are made available to the agents ("service computer"). So while not expressly disclosing transmission of the modules, it is obvious to one ordinary skill in the art that there is some means for the agents to retrieve the modules over the network.

To this end, Beck was used to further disclose that such functionality is well known in the art. Beck discloses that a computer can download the necessary programs from a server to run a desired service. Beck, column 6 «lines 13-16». Therefore, Examiner believed it to an

obvious enhancement of Yates to incorporate the concept of a server to transmit Yates' modules to the agents.

- B. Yates and Beck are properly combined because they are directed towards solving the same problem of efficiently providing services to devices.

Applicant asserts that Beck discloses sharing implementations between devices having similar modules. Applicant's Appeal Brief, pg 14, ¶ 2. Applicant further asserts that Yates "terminal and the terminal domain are very different". Id. Based on these assertions, Applicant arrives at the conclusion that there would be no reason to combine the references.

First, the Office submits that these assertion do not really relate to the crux of Applicant's argument - that Beck and Yates are directed towards solving different problems. Id. at pg. 13, ¶ 3. Applicant simply asserts, without support, that the references are different and thus there is no reason to apply Beck's teaching towards Yates. Applicant's assertions here thus seemingly address the motivation to combine in regards to the teachings of the prior art, rather than the problem that they intend to solve.

Furthermore, Applicant's assertion in regards to Beck is an inaccurate interpretation of Beck's disclosure. No where in Beck's disclosure does he limit his invention to merely devices having similar modules, such as PDAs. The section cited by Applicant remarks that they are only examples of devices that can be utilized.

Instead, Beck discloses that his invention is intended to solve the problem of providing both "mobile and non-mobile devices" the ability to discover and use services in an efficient manner within a network environment. Beck, column 1 «lines 25-44» | column 2 «lines 46-50». Applicant's assertion is antithetical to Beck's stated goal of allowing both

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mobile and non-mobile computing devices to share services by interacting with other electronic devices. See Id., column 1 «lines 9-20» | column 8 «lines 9-15» | column 8 «lines 62-64». Beck states that “[s]haring is important, since it expands the functionality available to these devices”. Beck, column 1 «lines 19-20».

Similarly, Yates is directed towards a method for providing of service provisioning and “offer[ing] functionality associated with using services, providing them and managing them and the reconfigurability allows it to offer the different types of functionality”. Yates, abstract. Yates also discloses utilizing communicating services to and from a variety of devices, such as portable phone and portable computing devices. Id., column 1 «lines 19-22». Yates and Beck are therefore directed towards solving the same problem of providing services and extending new types of functionality to computing devices.

C. The combination of Yates and Beck does not alter the principle of operation of the references.

Applicant reiterates his interpretation that Beck is merely directed towards similar devices. Appeal Brief at pg. 15, ¶ 2. Then, Applicant admits that both references are applicable to mobile devices and utilizing object-oriented principles. Id. Based solely on the erroneous assertion that Beck and Yates are different, Applicant concludes that the principle operation will be changed by their combination.

The Office is unclear as to the logical link between Applicant’s assertion and Applicant’s conclusion. Applicant does not provide any further explanation as to how Yates, as the primary reference, would be unavoidable altered by incorporating Beck’s teaching into Yates. Applicant’s conclusion seemingly relies upon the unsupported assertion that Beck ‘ is

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only directed towards similar devices and Yates' "terminal and the terminal domain are very different". Id. As discussed in section B of this response, Applicant's assertion is inaccurate.

Beck was used to disclose transmitting service modules from a server to a user's terminal. Beck discloses that a computer can download the necessary modules from a server to run a desired service. Beck, column 6 «lines 13-16». Therefore, Beck is an obvious enhancement of Yates to incorporate the concept of a server to transmit Yates' modules to the agents. Modifying Yates in light of Beck would thus provide transmission capability of Yates' modules [which correspond to claimed service container]. As discussed in Beck, such an implementation provides an efficient means of allowing devices to discover services. Thus, Yates is not violently altered from its principle of operation. Rather, Beck provides an improvement in Yates' operation.

D. Yates' policies correspond to Applicant's claimed service component.

Applicant asserts that Yates does not disclose a service component. Appeal Brief, at pg. 15, ¶3. Applicant argues "the code and SIBB of Yates et al...are not included in the policies". The relevance of this statement is unclear. Claim 1 discloses that service is provided when a service machine executes or applies at least one service component. As cited by Applicant, Yates' code and SIBB correspond to claimed service machine. Thus, based on Applicant's conclusions, Applicant seems to be asserting that the service machine are included in the service component which is contrary to Applicant's claim language.

According to Applicant's claim 1, the service component provides personal service when executed by the service machine and the service component is transmitted to the

service machine (located at the service computer). Yates' policies meet these limitations. The policies are responsible for reconfiguring user terminals such that they are provided with new service functionality. Yates, column 11 «lines 27-30» | column 17 «lines 33-37». The policies also may be transmitted to Yates' SIBB object (Applicant's service machine), where the SIBB object executes the policy in order to provide the requested service. Id., column 17 «lines 42-67». Thus, Yates' policies teach Applicant's service component.

E. Yates and Beck teach the claimed communication means.

Applicant's argues that Yates and Beck do not disclose a communication means. Appeal Brief at pg. 16, ¶ 2. Applicant then focuses on Beck in support of his argument. Applicant concludes his discussion of this argument by concluding: "Even if Beck et al is only used to teach the functionality of transmitting service containers between devices over a network, the functionality of Beck et al fails to teach or suggest the transmission of the service container of the claimed invention". Id. at pg. 16, ¶ 4. The Office is unsure how to respond to these remarks as there is a disconnect between Applicant's initial argument and his conclusion.

Applicant discloses that the communication means is essentially a user's terminal. Applicant's specification, pg. 3, ¶ 3. Thus, Yates' user terminal corresponds to Applicant's claimed communication means. Yates, column 2 «lines 40-42».

Applicant also merely asserts that the claimed invention involves three different parties and Beck only involves two similar devices. Appeal Brief, pg. 16, ¶ 4. Applicant then concludes that Beck does not teach the functionality of transmitting service containers as

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claimed. However, Yates disclosed nearly all the elements of the limitation: the first service container, a service machine and a service computer [column 2 «line 66» to column 3 «line 15» | column 15 «lines 17-23» where Yates' modules is analogous to the service container and the code of the module and the SIBBs are analogous to a service machine].

Applicant's service container comprises program code. Applicant's specification, pg. 8, ¶ 1 ("The service computer module SCM may comprise an interpreter decoding and executing statements of the service container's CONT1 program code"). Beck discloses transmitting service containers between devices in a network to provide an efficient means to effectuate services. Thus, it would have been obvious to one of ordinary skill in the art to modify Yates' system such that Yates' modules [corresponding to Applicant's service container] are transmitted to the service computer. Such a combination keeps in line with Yates' goal of providing a dynamic configuration of new services on network devices.

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(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.


For the above reasons, it is believed that the rejections should be sustained.

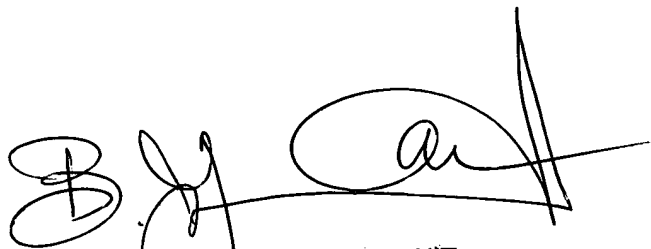
Respectfully submitted,

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March 1, 2005.

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